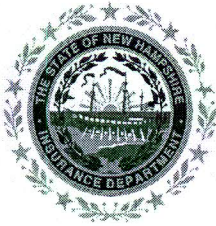


The State of New Hampshire Insurance Department

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John Elias
Commissioner

A handwritten signature in purple ink, appearing to read "A. Feldvebel".

Alexander K. Feldvebel
Deputy Commissioner

Bulletin Ins. 18-054-AB

TO: Automobile Dealers, Insurance Producers, and Insurance Companies

FROM: John Elias, Insurance Commissioner

DATE: November 8, 2018

RE: Solicitation, Negotiation and Sale of Motor Vehicle Liability and Physical Damage Insurance

I. Introduction:

It has come to the Department's attention that automobile dealers are assisting consumers with the purchase of motor vehicle insurance. The Department is issuing this bulletin to remind all parties involved in the sale of motor vehicles that the solicitation, negotiation, and sale of motor vehicle liability and physical damage insurance requires an insurance producer license. See RSA 402-J:3. This legal requirement is designed to ensure that only those who are knowledgeable and competent about insurance advise consumers in regard to the purchase of insurance.

II. Law:

In order to negotiate, solicit, or sell insurance in New Hampshire, a person (individual or business entity) must be licensed for the particular type of insurance at issue. See RSA 402-J. The terms negotiate, solicit, and sell are defined as follows:

- "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of such contract, provided that the person engaged in that act either sells insurance, or obtains insurance from insurers for purchasers.
- "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.
- "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

See RSA 402-J:2, XI, XII, & XIV.

There are some limited exceptions to the general prohibition against unlicensed persons selling insurance (available at <http://www.gencourt.state.nh.us/rsa/html/XXXVII/402-J/402-J-4.htm>). However, the exceptions are not relevant to the situation of an auto dealer assisting a consumer with the purchase of motor vehicle liability and physical damage insurance.

III. Illustrations:

- **Example #1: Salesperson advises a consumer that he or she could save money by purchasing automobile insurance from insurance company A.**
The salesperson is “soliciting” automobile insurance because he or she is recommending or urging a person to apply for a motor vehicle insurance policy from a particular company. The salesperson would need to have an RSA 402-J license to provide this advice.
- **Example #2: Salesperson assists a consumer with obtaining insurance online by using the salesperson’s computer to search for insurance for the consumer while the consumer watches.**
The salesperson is improperly “negotiating” motor vehicle insurance for the customer by assisting the customer to “obtain” it. The salesperson would need to have an RSA 402-J license to provide this service.
- **Example #3: Salesperson offers the customer the use of a computer at the dealership so that the consumer can search for insurance, but the computer is set to the website of a particular insurance company.**
The salesperson is improperly “soliciting” motor vehicle insurance by virtue of asking or urging the consumer to apply for insurance with a particular company. The salesperson would need to have an RSA 402-J license to engage in such activity.
- **Example #4: Automobile dealership maintains a computer terminal linked to the internet for use by consumers.**
A consumer may use the terminal to search for insurance as long as the salesperson does not operate the computer, the computer is not preset to any particular insurance company’s website, and the salesperson does not, in any way, recommend that the consumer apply for insurance from a particular company. The salesperson may suggest that the consumer visit a site that provides general advice on the purchase of insurance. The salesperson would not need to have an RSA 402-J license to engage in these activities.

If you have any questions regarding the information provided in this bulletin, please contact Attorney Emily Doherty at Emily.Doherty@ins.nh.gov or 603.271.4843